



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square – Suite 100
BOSTON, MA 02109-3912

JAN 8 - 2015

URGENT LEGAL MATTER – PROMPT ATTENTION REQUIRED
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Vincent A. Maietta
President, Maietta Enterprises, Inc.
President, Maietta Construction, Inc.
(Former) Manager, M7 Properties, LLC
154 Pleasant Hill Road
Scarborough, ME 04074

Re: Request for Information Pursuant to Section 308 of the Clean Water Act

Dear Mr. Maietta:

This letter concerns the discharge and redeposit of soil, rocks, sand and/or other dredged or fill materials into wetlands and/or waterways located on property currently belonging to Maietta Enterprises, Inc. at 150 Pleasant Hill Road in Scarborough, Maine (the "Site"). See Attachments A (Property Map) and B (Aerial Photograph). The U.S. Environmental Protection Agency ("EPA") believes freshwater wetlands may have been filled, excavated, and/or altered at various locations on the Site sometime between 2006 and the present without the requisite federal permit.

Under the provisions of the federal Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, the discharge of pollutants (in this case soil, rocks, sand, and/or other dredged and fill material) into waters of the United States, including most wetlands, is unlawful except as authorized by, among other things, a permit issued pursuant to Section 404 of the Act, 33 U.S.C. § 1344. The U.S. Army Corps of Engineers ("Corps") is responsible for accepting applications for and issuing or denying permits to perform such work, while EPA reviews and comments to the Corps on permit applications received. The Corps and EPA share enforcement responsibilities under the Act, which provides for both administrative and judicial penalties.

Section 308(a) of the Act, 33 U.S.C. § 1318(a), allows EPA to require the disclosure of information necessary to determine whether any person has violated any provision of the CWA, including Section 404. By this letter, EPA seeks information concerning the discharge and redeposit of dredged and/or fill material into wetlands at the Site. *Please note that this letter is being sent to you in your individual capacity, in your capacity as President of Maietta Enterprises, Inc. and Maietta Construction, Inc., and your capacity as former manager of M7 Properties, LLC. Accordingly, answer the questions set forth below fully and accurately on behalf of yourself and the entities identified above.* In addition, when answering, please follow the instructions provided in Section I and review the definitions set forth in Section II.

Pursuant to Section 308, you are hereby requested to furnish the information identified below *within 30 days of receipt of this letter*. Failure to respond to this information request may subject you to administrative and judicial enforcement action pursuant to Section 309 of the Act, 33 U.S.C. § 1319, including, among other things, the imposition of civil penalties.

I. Instructions

- Answer each of the questions set forth below fully and accurately on behalf of yourself, Maietta Enterprises, Inc.; Maietta Construction, Inc.; and M7 Properties, LLC.
- Provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request. Precede each answer with the text and the number of the question and its subpart to which the answer corresponds.
- Any documents relied upon or used to answer any of the questions in the request must be copied and submitted to EPA with your response. All documents must contain a notation indicating the question and subpart of the question to which they are responsive.
- If information or documents not known or not available as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
- If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.

II. Definitions

For the purposes of this information request:

- The term "fill" means any material deposited on the Site, regardless of origin, including but not limited to, rock, sand, clay, gravel, manure, wood chips, stumpage, dredged spoil, and any other excavated or relocated material. Material "moved locally" from one location on a Site and placed in another location of the same Site meets the definition of "fill."
- The term "dredged materials" or "dredged spoils" means any material that is excavated or dredged from a water body, including wetlands.
- The term "deposit" means the placement, discharge, redeposit, redistribution, or addition of any material, including fill or dredged material, as defined above.

III. Respond to the Following

Unless otherwise stated, the questions in this Information Request Letter pertain to the Site located at 150 Pleasant Hill Road in Scarborough, Maine, as depicted on Attachments A and B.

General Information Pertaining to the Site:

- 1) Provide (a) the name, address, telephone number(s), and position of all persons or entities having an ownership interest in the parcel of property encompassing the Site; (b) a detailed description of each person or entity's ownership interest; (c) the date on which

each person or entity acquired an interest in the Site; and (d) the entity or person from whom each person or entity acquired that interest.

- 2) Describe the use of the Site between 2006 and the present. What is the current use of the Site? Describe all future plans for the Site.
- 3) Provide all reports, aerial photographs, evaluations, and/or site plans that relate to the Site as a whole or any subportion thereof, including soil reports, soil surveys, wetland delineations, engineering, construction, and survey reports prepared at any time. If you are not in possession of any of the reports listed above, please indicate the names, addresses, and telephone numbers of the parties who you believe may be, have been, or are in possession of such documents.
- 4) State whether dredged and/or fill materials was discharged into wetlands or waters anywhere on the Site. Using Attachment C, or other suitable document accurately depicting the Site, identify the location of any discharges of dredged and/or fill material into wetlands or waters and provide the size of impact to wetlands or waters in square feet or acres. Indicate whether a Corps permit was obtained for the discharge of dredged and/or fill material into wetlands or waters on the Site. Identify who was responsible for obtaining Corps permits for work on the Site. If you believe that a Corps permit was not required, state with specificity the reasons for such belief.
- 5) Provide copies of all correspondence, including but not limited to any permits or applications for permits, with any local, state, or federal government agency pertaining to the deposit, retention, or removal of dredged and/or fill material into wetlands. In addition, provide correspondence pertaining to any other work occurring in wetlands or waters at the Site.
- 6) Describe all verbal communications with any local, state, or federal government agency, pertaining to the deposit, retention, or removal of dredged and/or fill material, or to any other work occurring in the wetlands or waters at the Site, including the identity of all persons involved, the date of such communications, and the substance of the communications.
- 7) Have you or anyone else with an ownership interest in the Site ever sought a Corps permit for past projects involving work in wetlands or waters? Please provide information indicating the name and location of the property, the date of the application or transaction, the type of activity, and a copy of the permit or any documents relative to your communications with the Corps.
- 8) Please provide copies of any other state or federal permitting for the Site, including all stormwater permitting and/or sand and gravel permitting.

Information Regarding Activities Conducted on the Site:

- 9) Review Attachment D (aerial photograph of Site dated February 18, 2006) and Attachment E (aerial photograph of Site dated March 31, 2012). Specifically describe and provide the dates of all work conducted on the Site between 2006 and the present, including, but not limited to, any land clearing, grubbing, grading, excavating, and/or filling. Using Attachment E, or other suitable document accurately depicting the Site, identify the location(s) on the Site where each of these activities took place.

- 10) Using Attachment E, or other suitable document accurately depicting the Site, identify all locations on the Site where any excavated, fill, and/or dredged material or any stumpage or cleared vegetation associated with the work described in response to Question 9 above was deposited. State the date(s) of each deposition.
- 11) Identify the types of equipment used for the work described in response to Question 9 above, including any equipment used to clear vegetation and stumpage and/or excavate, deposit, or move soil or other fill material on the Site. Provide the names and addresses of the owners and operators of this equipment and state the date(s) of operation at the Site.
- 12) Identify all persons (including their names, mailing addresses, and telephone numbers) who performed, directed, or supervised work at the Site between 2006 and the present. Provide a description and the dates of the work performed, directed, or supervised by each person.
- 13) Provide a list of all consultants, contractors, and subcontractors (including their names, mailing addresses, and telephone numbers) that performed, directed, or supervised work at the Site between 2006 and the present. Provide a description and the dates of the work performed, directed, or supervised by each consultant, contractor, and subcontractor.
- 14) Provide copies of all contracts, invoices, or forms of proof of payment you have, or have had, with the consultants, contractors, and subcontractors listed in response to Question 13 above. If no contracts or related paper work exist, describe your business arrangement with each consultant, contractor, and subcontractor relative to work at the Site.

Information Pertaining to Materials Delivered to or Brought onto the Site:

- 15) Identify all sources of sand, gravel, fill and/or dredged material delivered to or otherwise brought onto the Site between 2006 and the present. Provide copies of all contracts, invoices or forms of proof of payment you have, or have had, with each vendor, contractor, and subcontractor relative to the acquisition, delivery, and placement of sand, gravel, fill and/or dredged material at the Site.
- 16) Using Attachment F, or other suitable document accurately depicting the Site, identify all locations on the Site where sand, gravel, fill and/or dredged material delivered to or otherwise brought onto the Site has been deposited, placed, or relocated. Provide the dates of each deposit, placement, and/or relocation.
- 17) Identify the types of equipment used for depositing, placing, and/or relocating sand, gravel, fill and/or dredged material delivered to or otherwise brought onto the Site. Provide the names and addresses of the owners and operators of that equipment and state the date(s) of operation at the Site.
- 18) Identify all persons, consultants, contractors, and subcontractors (including their names, mailing addresses, and telephone numbers) who performed, directed, or supervised work related to the deposition, placement, or relocation of sand, gravel, fill and/or dredged material delivered to or otherwise brought onto the Site. Provide a description and the dates of the work performed, directed, or supervised by each person, consultant, contractor, or subcontractor.

You may assert a business confidentiality claim with respect to part or all of the information submitted to EPA in the manner described at 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by the means, of the procedures set forth in 40 C.F.R. 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to you. Please be aware that state laws governing confidential business information may differ from the federal regulations.

If you have a consultant, attorney, or other agent respond to this inquire on your behalf, please include a certification, stating that such agent has the authority to respond for you; and sign the return "Declaration" form provided. This certification must include your signature.

Please address your response, send by certified mail, to Mr. Raymond Putnam, Office of Environmental Stewardship, U.S. EPA Region 1, 5 Post Office Square, Suite 100, Mail Code OES05-1, Boston, Massachusetts 02109-3912.

In closing, please be advised that since a federal permit was not issued pursuant to Section 404 of the CWA, you should not perform any additional work in wetland areas or other waters at the Site. In addition, as there are significant differences between Maine state law and federal law governing wetlands, resolution of wetlands violations under state law may not resolve claims under federal law or prevent EPA from bringing a separate enforcement action under the CWA.

If you have any technical questions concerning the required information, please contact Raymond Putnam of my staff at (617) 918-1523. If you have any legal questions, or if your attorney wishes to communicate with the EPA on your behalf, please contact Laura Beveridge at (617) 918-1345.

Sincerely,



James Chow, Acting Deputy Director
Office of Environmental Stewardship

Attachments: Attachments A-F
Small Business Information Sheet
Business Confidentiality Information
Declaration – Agent Certification

Cc w/ attachments:

Mr. Vincent A. Maietta
199 Elderberry Drive
South Portland, ME 04106

Cc w/o attachments:

Jay Clement
Regulatory Division

Maine Project Office
U.S. Army Corps of Engineers
675 Western Avenue #3
Manchester, Maine 04351

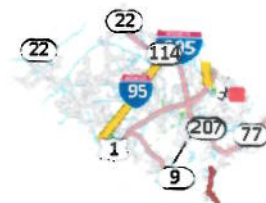
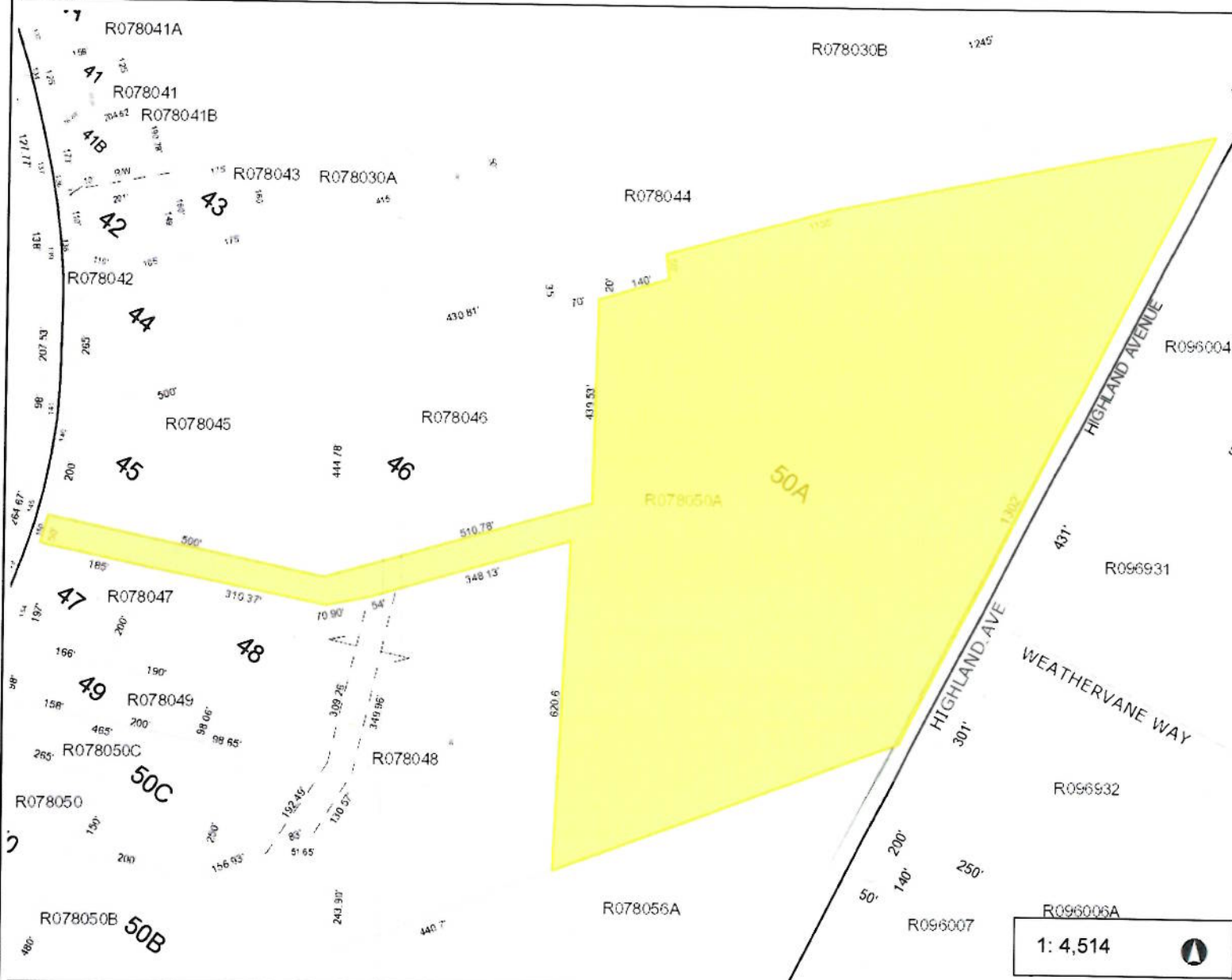
Marybeth Richardson, Regional Licensing and Compliance Manager
Maine DEP, Bureau of Land and Water Quality
312 Canco Rd., Portland, ME 04103

Raymond Putnam, Ph.D.
U.S. EPA, Region 1 – New England

Laura Beveridge, Esq.
U.S. EPA, Region 1 – New England



Scarborough WebGIS



Legend

Notes

1: 4,514



Disclaimer

This map is a user generated static output from the Town of Scarborough internet mapping site (WebGIS) and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1/6/2015

0.1 0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
Town of Scarborough, Maine

Attachment B

Imagery Date 3/31/2012











Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrf.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrf.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers
(www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.
(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse
(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline
(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information
(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.
(1-202-554-1404)

Wetlands Helpline
(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman
(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage
(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

DECLARATION

I declare under penalty of perjury that I am _____
(Name)

I have authorized _____ to respond on
(Name of Consultant)

behalf of _____ and that the foregoing is a
(Business Name)

complete, true, and correct response.

Executed on _____
(Date)

(Signature)

(Type Name and Title)